

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:01-00234-001

ARTHUR GRAHAM JUSTICE

MEMORANDUM OPINION AND ORDER

The court is in receipt of numerous letters and phone calls from various individuals - - most of whom serve the religious needs of incarcerated individuals at FPC Big Sandy - - asking the court to release defendant from his sentence of imprisonment and/or otherwise reduce his sentence. The court may not modify a term of imprisonment once it has been imposed except in very limited circumstances, none of which are present here. See 18 U.S.C. § 3582(c); U.S. v. Hudson, 2002 WL 1980686 (10th Cir. 2002); U.S. v. Fraley, 988 F.2d 4 (4th Cir. 1993).*

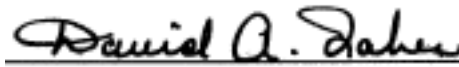
* In any event, the court would not be inclined to reduce defendant's sentence even if it had the authority to do so. Defendant was previously given a "break" by this court pursuant to a Rule 35 motion granted by the court resulting in a substantial reduction in defendant's sentence in another case. Defendant repaid the court's confidence in him by turning to criminal activity once again after he was released from imprisonment. As the court noted at defendant's sentencing hearing:

Mr. Justice, I sentenced you at the top of the guidelines because I've heard your song and dance before. The government went to bat for you after I sentenced you the first time. I gave you a healthy lick the first time, because I thought you deserved it, and the government went to bat for you, made a motion for substantial assistance, and came in here and you told me how reformed you were and how much better you were going to do, and I cut your sentence down to 18

The Clerk is directed to send a copy of this Memorandum Opinion and Order to defendant, counsel of record, the Probation Office of this court, the United States Marshal for the Southern District of West Virginia, to the Bureau of Prisons at USP Big Sandy, Kentucky, and to Monsignor Ralph W. Beiting at 120 Chaplin Road, Louisa, Kentucky 41230.

It is SO ORDERED this 4th day of April, 2006.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber
Chief Judge

months and let you go home, I believe, and your thanks to me was to go right back to the same kind of conduct you had been engaged in before. You basically made a fool out of the court and not only - - and also yourself. I gave you one substantial break, and your thanks to me was to ignore the responsibility you had to become an upstanding citizen, and to break all the promises you've made to me about how you were reformed and how much better you were going to do, and I just heard all the same line today again in court, and this time it's not going to do you any good. You've deserved the sentence at the top of the guideline range because of your long history of despicable criminal conduct, and if I could give you more time than I gave you today, I would have, because I think you've earned it. You need to be placed - - removed from polite society where you can't hurt other people, and I think you've earned a sentence at the top of the guidelines.